IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 1472 of 2005

Between:

M/s.Northern Power Distribution Company of A.P. Ltd.,
H.No.1-1-504, Opp:REC Petrol Pump, Chaitanyapuri, Hanumakonda, Warangal District rep., by its Chief General Manager (Expr.) Sri M.Rajeswar

..... PETITIONER

AND

1 Commercial Tax Officer, Janagon.
2 Appellate Deputy Commissioner (CT), Warangal.
3 Chief Manager, State Bank of Hyderabad, Hanumakonda (Main) Branch, Nakkalagutta, Hanumakonda, Warangal District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction particularly one in the nature of writ of certiorari after calling for the records and quash the impugned garnishee notice dated 24-1-2005 passed in Ref.No.Asst.No.1/2004-05 (Entry Tax) issued by the first respondent to the third respondent in seeking to recover the balance disputed tax of Rs.27,11,095/- for the year 2004-05 (Entry Tax) and grant stay of collection of the balance disputed tax of Rs.27,11,095/- during pendency of appeal before the Sales Tax Appellate Tribunal or to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.KRISHNA MURTHY
Counsel for the Respondent Nos.1 and 2: GP FOR COMMERCIAL TAX
Counsel for the Respondent No.3: None appeared

The Court at the admission stage made the following :

ORDER (Per the Hon'ble Sri Justice MHS Ansari)

Having heard the learned counsel for the respective parties, we are inclined to dispose of the instant Writ Petition with certain directions at admission stage, instead of keeping the Writ Petition pending on the file of this Court.

The grievance of the petitioner appears to be mainly with regard to the recovery of the balance disputed tax of Rs.27,11,095/- for the year 2004-2005 (entry tax) pending disposal of the appeal filed by the petitioner before the Sales Tax Appellate Tribunal (for short 'S.T.A.T').

The entry tax is sought to be levied upon the petitioner rejecting his contention that he is not the owner of the goods and also rejecting the contention that by the subsequent G.O.Ms.No.552 Revenue dated 12-9-2002, the transformers which are exigible to entry tax , no longer are liable for such tax. However, as these are the contentions which are required to be considered in the second appeal pending before the learned S.T.A.T. we are not inclined to go into the merits of those contentions leaving it open to the learned S.T.A.T. to consider them amongst other contentions raised in the appeal pending before it.

However, as certain coercive steps have been taken by issuance of notice in exercise of powers vested under Section 17 of the A.P.G.S.T. Act attaching the bank account of the petitioner for the balance disputed entry tax, we are inclined to dispose of the Writ Petition with a direction to the petitioner to deposit 50% of the said disputed tax within four weeks from today and if such deposit is made, the appeal pending before the S.T.A.T. shall be heard on its

own merits without insisting upon payment of the balance disputed tax. Consequently, the impugned notice of attachment issued under Section 17 of the Act shall remain in abeyance until disposal of the appeal. Thereafter it shall be open for the respondent authorities to affect recovery of the tax, if any, due and payable by the petitioner pursuant to the order that may be passed in the appeal by the learned S.T.A.T.

The Writ Petition accordingly stands disposed of with the above directions. No order as to costs.

M.H.S.ANSARI, J

Dated: 03-02-2005

T.CH.SURYA RAO, J

Hsd

To

1 Commercial Tax Officer, Janagon.
2 Appellate Deputy Commissioner (CT), Warangal.
3 Chief Manager, State Bank of Hyderabad, Hanumakonda (Main) Branch, Nakkalagutta, Hanumakonda, Warangal District.

4.2 C.Cs to G.P. for Commercial Tax, High Court Buildings,

Hyderabad (OUT)

5. 2 C.D. copies.